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REMARKS

Claims 1-92 are pending in this application. All claims were rejected under 35 U.S.C. §102(e) as being anticipated by Siu. Claim 38 was also rejected under 35 U.S.C. §112 for lack of antecedent basis. Claims 1, 5, 14, 18, 19, 25, 27, 28, 30, 37-40, 42-44, 54, 57-59, 61, 62, 74, 78, 79, 85, 87, 88 and 90 are currently amended. Reconsideration and further examination are respectfully requested.

The presently claimed invention distinguishes Siu because a drop probability function causes data units such as ACKs to be dropped in an overload condition. Siu does not operate by dropping ACKs, but rather by withholding ACKs. See for example in the Abstract "the known transmission rate of the BCN is translated to a timed sequence of acknowledgement releases based on the predicted behavior," and "an acknowledgement is released if the effective queue size is less than a threshold." In contrast, the presently claimed invention operates by dropping ACKs rather than withholding ACKs.

The presently claimed invention further distinguishes Siu because the drop probability increases in an overload condition. The Basic Scheme described by Siu at Col. 13, lines 45-53 defines a step function in which the probability of withholding an ACK changes from 0% to 100% at the point where the queue estimate equals the queue threshold. In contrast, the presently claimed invention employs a control function which defines gradually increasing drop probability relative to average queue size, i.e., not a step function. (See, e.g., Fig. 7) One potential advantage of a gradually changing function over a step function is improved stability.

The distinguishing features described above are recited in the claims as amended. For example, claim 1 distinguishes Siu by reciting "determining a steady-state operating point of a

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first network node relative to a second network node ... determining a control function for the second node based upon the queue function, wherein the control function prompts a gradual increase of drop probability in an overload condition.” Similarly, claim 43 recites “a control function module for determining the control function based upon the queue function, the control function defining a drop probability which increases gradually in an overload condition.” Claims 5, 14, 18, 19, 25, 27, 28, 30, 37, 39, 40, 42, 44, 54, 57-59, 61, 62, 74, 78, 79, 85, 87, 88 and 90 recite similar distinguishing limitations. The dependent claims further distinguish the invention, and are allowable for the same reasons as their respective base claims. Consequently, withdrawal of the rejections of claims 1-92 under 35 U.S.C. §102(e) as being anticipated by *Siu* is respectfully requested.

Claim 38 has been amended to overcome the rejection based on §112. In particular, the dependency has been changed from claim 36 to claim 37. Withdrawal of the rejection of claim 38 based on §112 is therefore requested.

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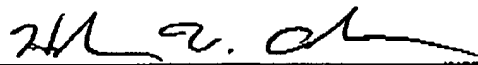
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Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Date

  
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